




STATE AND CONSUMER SERVICES AGENCY • GOVERNOR EDMUND G. BROWN JR.
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DATE: May 3, 2011

TO: Board Members

FROM: 
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Enforcement Division Chief

SUBJECT: Proposed Regulatory Action to Implement Elements of the Consumer Protection Enforcement Initiative

Background

In 2009, various media articles reported that most Department of Consumer Affairs (DCA) health care boards were taking over three years to complete the investigations and take appropriate disciplinary actions against licensees. As a result, the State and Consumer Services Agency (SCSA) conducted an internal review of all the health care board's enforcement programs and the DCA Division of Investigations (DOI). The SCSA found that most of the health care boards face significant complaint investigation backlogs and processing delays. The DCA Director was charged with reforming the current enforcement process for the health care boards.

The DCA reviewed the existing enforcement process and found systemic problems that limit the boards' abilities to investigate and act on cases in a timely manner. These problems range from legal and procedural challenges to inadequate resources. In response, the DCA launched the Consumer Protection Enforcement Initiative (CPEI) to overhaul the enforcement process at the healing arts boards. Once fully implemented, the DCA expects the healing arts boards to reduce the average enforcement completion timeline to between 12-18 months.

On February 17, 2010, SB 1111 was introduced by Senator Negrete McLeod and sponsored by the DCA to establish the Consumer Health Protection Enforcement Act and make enforcement processes more efficient. However, on April 22, 2010, the bill failed to make it out of the Senate Business, Professions and Economic Development Committee. On April 26, 2010, the DCA reported that CPEI would continue to be the Department's highest priority and believes that many provisions of SB 1111 can be adopted as regulations.

Proposed Regulatory Action

At its September 16, 2010 Board Meeting, the Board approved draft proposed regulatory language to implement elements of CPEI and directed staff to prepare a rulemaking file for notice and comment. The notice of proposed regulations was published on March 25, 2011 and a public hearing scheduled on May 11, 2011.

Board staff is considering revisions to the proposed regulatory language based on comments received during the public comment period and at the hearing. Another 15 day public comment period will be held prior to completing the rulemaking file. The final proposed regulatory language will be presented to the Board at its September 8, 2011 Board Meeting.